

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

GORDON FRANKLIN, JR.,)
)
)
Petitioner,)
v.) Civil Action
)
MARTY ANDERSON, Warden,) No. 08-3338-CV-S-ODS-H
)
)
Respondent.)

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that petitioner be denied leave to proceed in forma pauperis, and that the petition be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation in which he continues to raise allegations that are incomprehensible. The record indicates that because of his lengthy history of filing petitions for habeas corpus relief that fail to state specific, colorable claims, petitioner's last two habeas petitions have been dismissed with prejudice. Franklin v. Gunja, 07-3171-CV-S-RED-H (W.D. Mo. June 28, 2007); Franklin v. Gunja, 07-3199-CV-FJG (W.D. Mo. July 7, 2007).

In the instant case, upon full de novo review, the Court finds that petitioner has likewise failed to articulate any facts sufficient to state a comprehensible claim for relief. Further, this Court notes that petitioner remains lawfully in the custody of the Attorney General, pursuant to 18 U.S.C. §

4246.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved, with the exception that, based on petitioner's history, it will be the ruling of this Court that the dismissal be with prejudice. It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, considered and overruled. It is further

ORDERED that petitioner should be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus should be, and it is hereby, dismissed with prejudice.¹

/s/ Ortrie D. Smith
ORTRIE D. SMITH
United States District Judge

Date: 10/15/08

¹ Counsel for the petitioner has filed a Motion to Withdraw. Because there are no issues presented for which relief is appropriate, the motion is granted.